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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,044	12/12/2003	Shirley Vigil	030475 (BLL-0170)	2490
36192 7590 05/12/2008 CANTOR COLBURN LLP - BELL SOUTH 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER JARRETT, SCOTT L				
ART UNIT		PAPER NUMBER		
3623				
MAIL DATE		DELIVERY MODE		
05/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/735,044

**Applicant(s)**

VIGIL, SHIRLEY

**Examiner**

SCOTT L. JARRETT

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Non-Final Office Action is in response to Applicant's submission filed December 12, 2003. Currently Claims 1-17 are pending.

***Claim Objections***

2. Claim 7 is objected to because of the following informalities: Claim 7 recites "observablebehaviors" instead of the intended "observable behaviors." Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989).

Regarding Claims 1, 9 and 17 Michaels teaches a system and method for providing a disciplined approach for conducting business management activities comprising:

- developing an activity list of tasks and behaviors that relate to an identified opportunity (time studies, work sampling, etc.; Bullets 1-2, Page 58; Steps 1-3, Page 59; "Use Of Flow Charts", Page 62);

- performing a time study of observable behaviors associated with the activity ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- collecting data resulting from the time study ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- collecting data resulting from performance of work activities ("Time Studies", Page 56; Last Paragraph, Page 57; Bullets 2-3, 4, Page 58; Step 3, Page 59);

- identifying issues presented as a result of analyzing the data (Bullet 6, Page 58; Paragraph 4, Page 58; Steps 4-6, Page 59; Paragraph 6, Page 61; Last Bullet, Page 62);
- generating and implementing a roadmap (plan, process, approach, strategy, model, etc.) for resolving issues (e.g. new/revised process; Steps 4-6, Page 59; Last Two Bullets, Page 62);
- training individuals affected by the roadmap in accordance with action items contained in the roadmap (e.g. performance feedback; Paragraph 5, Page 62; Bullets 1-2, page 63); and
- updating resource schedules and allocation (e.g. balancing workloads; Last Bullet, Page 55; Bullet 1, Page 56; Bullet 1, Page 62).

Michaels does not expressly teach *forecasting future resource requirements* based upon reports generated as a result of the collecting data and identifying issues as claimed.

Official notice is taken that forecasting resource (human, non-human, etc.) requirements based on observed/collected work performance/activity data (e.g. comparing actual to planned resources observed; Specification: Figure 8, Paragraph 50) is old and very well known in workforce planning/scheduling and management control systems (see at least Horney, Implementing a Management Control System, 1984, Abstract) wherein historical and/or real-time work activity/performance data

enables businesses to more accurately plan future resource requirements based on observed data (facts) determining such things as the level of staffing required (number, skill set, hire/fire, etc.), the need for overtime and the like.

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from forecasting future resource requirements based upon reports generated as a result of the collecting data and identifying issues in view of the teachings of Official Notice; the resultant system/method enabling businesses forecast resource requirements based on observed/collected data, such forecast being more likely than estimates not based on historical and/or real time work performance/activity data.

It is noted that the labels used to describe the various system components (subsystems, subroutines, code, hardware, etc.) plan, execute, report, follow-up, coach/train, forecast and sustain merely represent non-functional descriptive material Michaels is silent on the 'components' comprised in the business management system and method and does not specifically teach that the business management system and method further comprises a plurality of components (subsystems, subroutines, code, hardware, etc.) including plan, execute, report, follow-up, coach/train, forecast and sustain recited in claim 17; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be

Art Unit: 3623

performed the same regardless of the specific labels applied to the various system components. Further, the structural elements remain the same regardless of the specific labels applied to the various system components. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

5. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) as applied to claims 1 and 9 above, and further in view of Leehman, U.S. Patent Publication No. 2005/0043976.

Regarding Claims 2 and 10 Michaels teaches updating roadmaps (plans, processes, activities, etc.) upon notification of a compliance resulting from an activity assessment (Last Bullet, Page 55; Steps 5-6, Page 59; Paragraphs 2-3, Page 61).

Michaels does not expressly teach that the business management system and method further comprises updating a *database of roadmaps* upon notification of a compliance resulting from an activity assessment.

Leehman teaches updating a database of roadmaps (recommended process maps, best practices) upon notification of a compliance resulting from an activity assessment (Paragraphs 0019, 0023, 0035-0037) for the purposes of improving current roadmaps (processes, process maps) based on roadmaps stored in the roadmaps database (best practices database) in order to select the most cost effective process (roadmap) which meets the performance criteria (compliance requirements, Paragraph 0023, 0035).

More generally Leehman teaches a system and method for providing a disciplined approach for conducting business management activities comprising:



- developing an activity list of tasks and behaviors that related to an identified opportunity (Paragraph 0009, Figure 1);
- performing a time study of observable behaviors associated with the activity (Paragraphs 0018-0019);
- collecting data resulting from performance of work activities (Paragraphs 0018-0019);
- identifying issues presented as a result of analyzing the data (e.g. non-compliance; Paragraphs 0035-0037);
- generating and implementing a roadmap (process map, target process) for resolving issues (Paragraphs 0035);
- documenting current workflow (process) conditions and requirements (Paragraphs 0018-0019, 0023);
- identifying key volume/measurement indicators (key performance indicators, KPI; Paragraph 0018-0019, 0056-0075); and
- identifying activities and creating an activity list summary (Paragraphs 0019).

Leehman further teaches that the system and method for providing a disciplined approach for conducting business management activities includes the following system components (subsystems, subroutines, code, hardware, etc.) plan (research; Paragraph 0028; Figure 2), execute (startup; Paragraphs 0028-0029), report (Figures 4A, 4B), follow-up (Paragraphs 0034, 0037; Figures 4A, 4B), coach/train (Paragraphs 0034, 0037; Figures 4A, 4B), and sustain (Figures 3A, 3B).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels with its ability to update roadmaps would have benefited from updating a roadmaps stored in a database in view of the teachings of Leehman; the resultant system/method enabling businesses to update current best practices (best roadmaps/process maps) in a database which are in turn the most cost effective roadmap is selected (Leehman: Paragraph 0023).

Art Unit: 3623

6. Claims 3-4, 6, 11-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) as applied to claims 1, 9 and 17 above, and further in view of Kaplan et al., Linking the Balanced Scorecard to Strategy (1996).

Regarding Claims 3 and 11 Michaels teaches a business management system and method further comprising establishing, documenting and communicating goals and objectives for exploiting the opportunity (Paragraph 6, Page 61; Paragraph 2, Page 62) as well as establishing, document and communicating objectives (approach, process, plan, technique, etc.; e.g. setting standards; Steps 5-6, Page 59; Paragraph 2, Page 62; Bullet 1, Page 63).

Michaels does not expressly teach establishing goals and *strategies* for exploiting the opportunity; documenting the goals and *strategies*; and communicating the goals and *strategies* to affected individuals as claimed.

Kaplan et al. teach establishing goals and strategies for exploiting the opportunity (Paragraphs 2-4, Page 56; Exhibits 1, 7; Last Two Paragraphs, Page 64); documenting the goals and strategies (Paragraphs 2-4, Page 56; Exhibits 1, 7; Last Two Paragraphs, Page 64); and communicating the goals and strategies to affected individuals (Paragraph 4, Page 66; Last Paragraph, Page 77) in an analogous art of conducting a disciplined approach to business management for the purpose of articulating,

communicating the strategy of the business to affected individuals as well as linking the goals and strategies to key indicators/measures so that they can be managed (Paragraph 3, Page 56; Paragraphs 1-2, Page 68; Paragraph 3, Page 65).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from establishing, documenting and communicating the goals and strategies for exploiting an opportunity in view of the teachings of Kaplan et al.; the resultant system/method enabling business to align business activities with the goals and strategies of the business/organization by communicating those goals and strategies to affected individuals (Kaplan et al.: Paragraphs 1-2, Page 68).

Regarding Claims 4 and 12 Michaels teach a business management system and method further comprising developing an activity detail summary (report) comprising: documenting current workflow (process) conditions and requirements; identifying activities and creating an activity list summary ("Work Simplification", Page 59; "Measuring Management", Page 57; "Use of Flow Charts", Page 62).

Michaels further teaches the utilization of performance standards (Paragraphs 2-3, Page 57; Measuring Management, Page 57).

While the utilization of key indicators (measures, metrics, etc.; key performance indicators, key volume indicators, etc.) is old and very well known in business

performance management and/or business performance benchmarking Michaels does not expressly teach identifying key volume or key measurement indicators as claimed.

Kaplan et al. teach using information from an activity list to develop an activity detail summary (balanced scorecard) comprising (Last Two Paragraphs, Page 64; Paragraphs 2-3, Page 66; Paragraphs 2-3, Page 69; Table on Page 76; Exhibits 1, 7, 8): documenting current workflow (business process) conditions and requirements (objectives, measures, targets); identifying key volume/measurement indicators (key performance indicators, generic measures, performance drivers; Paragraphs 2-3, Page 66); and identifying activities and creating an activity list summary (initiatives; Exhibits 1, 7, 8) in an analogous art of business management for the purpose of assist business in achieving their business strategy (Paragraph 3, Page 56; Paragraph 3, Page 65) by translating the strategy into operational measurements (key indicators; Paragraph 3, Page 77).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from identifying and summarizing key volume and measurement indicators in view of the teachings of Kaplan et al.; the resultant system/method assisting business in achieving their business strategy (Kaplan et al.: Paragraph 3, Page 56; Paragraph 3, Page 65) by translating the strategy into operational measurements (Kaplan et al.: Paragraph 3, Page 77).

Regarding Claims 6 and 14 Michaels teaches a business management system and method wherein the key measurement indicators measure performance, service, quality and/or effectiveness of work performance quantifying results into relevant measurements (standards, productivity; Paragraph 2, Page 55; Paragraph 1, Page 56; Paragraph 2, Page 57).

7. Claims 5 and 13 re rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) in view of Kaplan et al., Linking the Balanced Scorecard to Strategy (1996) as applied to claims 4 and 12 above, and further in view of Leehman, U.S. Patent Publication No. 2005/0043976.

Regarding Claims 5 and 13 Michaels teaches a business management system and method wherein like work units are compared using fair standards (Paragraph 2, Page 55; Number 2, Page 56).

Michaels does not expressly teach the utilization of the key volume indicators or that the indicators are derived by comparing like work units and validating differences between processes used in like work units; and establishing engineering service metrics and reasonable expectations resulting from comparing the like work units; wherein the metrics include best demonstrated practices for activities conducted in the work units.

Leehman teaches a business management system and method comprising key performance indicators (volume measures, metrics) comprising:

- comparing like work units and validating differences between processes used in like work units (Paragraph 0023); and
- establishing engineering service metrics and (reasonable) expectations resulting from comparing the like work units (performance criteria, KPIs; Paragraphs 0023-0024, 0035);

- wherein the metrics include best demonstrated practices for activities conducted in the work units (Paragraphs 0035-0037)

in an analogous art of business management for the purpose of selecting best practices based on the comparison key measures between current practices and best practices (Paragraph 0023).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by the combination of Michaels and Kaplan et al. with its ability to update roadmaps would have benefited from comparing like work units, establishing metrics/expectations from the comparison wherein the metrics include best methods/practices in view of the teachings of Leehman; the resultant system/method enabling businesses to select current best practices based on the comparison key measures between current practices and best practices (Leehman: Paragraph 0023).



8. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) as applied to claims 1 and 9 above, and further in view of Denton, Keith D., Work sampling: Increasing Service and White Collar Productivity (1987).

Regarding Claims 7 and 15 Michaels teaches a business management system and method wherein the time study of observable behavior includes ("Time Studies", Page 56; Work Sampling, Last Paragraph, Page 57; "Measuring Management", Page 59): identifying behaviors to observe; observing the behaviors; defining metrics (standards) for the behaviors; documenting the observation (Bullets 2, 5, Page 58); and identifying issues resulting from the observations (Bullet 5, Page 58; Last Bullet, Page 62; Bullet 1, Page 63).

While determining the statistical validity of observations (sampling) is old and very well known Michaels does not expressly teach determining statistical validity of observations as claimed.

Denton teaches determining statistical validity of observations (Last Paragraph, Page 37; Table on Page 40) in an analogous art of business management for the purpose of ensure that the observations/measurements accurately reflect the observed activities/behaviors (Last Paragraph, page 37).

Denton further teaches a system and method for providing a disciplined approach for conducting business management activities comprising:

- performing a time study of observable behavior and collecting data resulting from performance and observations of the behavior (Paragraphs 2-4, Page 37; Last Two Paragraphs, Page 36);
- generating a tally sheet of detailed work volumes (Table on Page 37);
- capturing best methods/practices (Paragraph 5, Page 41);
- comparing like work units (Paragraph 1, Page 37); and
- establishing goals/objectives for key measures (Paragraph 2, page 39).

It would have been obvious to one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from the well known practice of determining the statistical validity of observations in view of the teachings of Wilde; the resultant system/method enabling businesses to ensure they have enough observations/measurements to accurately reflect the observed activities/behaviors (confidence level; Wilde: Last Paragraph, Page 37).

9. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels, Edward, Work Measurement (1989) as applied to claims 1 and 9 above, and further in view of Wilde, Edwin, A performance control system (1993).

Regarding Claims 8 and 16 Michaels teaches a business management system and method wherein collecting data resulting from performance work activities includes generating a tally sheet (sheet, table, count, spreadsheet, etc.; log/historical records) of detailed work volume (Paragraph 2, Page 57; Last Three Paragraphs, Page 56) and updating schedules based on observed activities (Last Bullet, Page 55).

Michaels does not expressly teach creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data as claimed.

Wilde teaches creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data (Column 1, Page 227; Column 1, Page 228; Figures 2, 3, 4) in an analogous art of business management for the purpose of utilizing key indicators/measures to manage/control work activities (Column 1, Paragraph 1, Page 225; Column 2, Last Paragraph, Page 225; Column 1, Paragraph 3, Page 228).

Wilde further teaches a system and method for providing a disciplined approach for conducting business management comprising:

- developing an activity list of tasks and behaviors (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figures 2, 4);
- performing a time study of observable behaviors (Figures 2, 4);
- collecting data resulting from performance of work activities (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figures 1,2, 4)
- identifying issues presented as a result of analyzing the data (Column 1, Paragraph 3, Page 228; Column 2, Last Paragraph, Page 226; Figure 4); and
- establishing and communicating goals and targets for exploiting the opportunity (Column 1, Paragraphs 1-2, page 227; Column 2, Paragraph 2, Page 228; Figure 4).

It would have been obvious for one skilled in the art at the time of the invention that the business management system and method as taught by Michaels would have benefited from teach creating a daily schedule control using the tally sheet, the daily schedule including: productivity, percentage overtime, earned hours and/or lost time data in view of the teachings of Wilde; the resultant system/method enabling business to identify and resolve issues based on the analysis of collected observations of work performance activities (Wilde: Column 1, Paragraph 3, Page 228; Column 2, Paragraphs 4-5, Page 230).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Millet et al., U. S. Patent No. 7,035,809, teach a system and method for providing a disciplined approach for conducting business management activities.

- Smith et al., U.S. Patent Publication No. 2004/0068431, teach a system and method for business management comprising establishing, observing, analyzing and reporting key measures/indicators.

- Adendorff et al., U.S. Patent Publication No. 2004/0102926, teach a system and method for a disciplined approach to business management comprising the establishment, observation, analysis and communication/reporting of key (performance, volume, etc.) measures/indicators.

- Horney, Implementing a Management Control System (1984), teaches a system and method for a disciplined approach to managing business activities comprising identifying activities and behaviors related to an opportunity, establishing and collected information on key volume indicators, establishing reasonable expectations, adjusting staffing levels (resource requirements), coaching individuals affected and generating and implementing recommendations (roadmaps) for resolving identified issues.

- Baines, Work measurement – the basic principles revisited (1995), teach the old and well known methods of work measurement including time studies, work

sampling and the like wherein work activity performance data/observations are collected and analyzed to identify and resolve work activity issues.

- Maskel, Performance Measurement for World Class Manufacturing (1991), teaches a plurality of well known methods/systems for providing a disciplined approach for conducting business management activities.

- Kaydos, Operational Performance Measurement (1998), teaches a plurality of well known methods/systems for providing a disciplined approach for conducting business management activities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

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/Scott L Jarrett/  
Primary Examiner, Art Unit 3623